



TOWN OF TYNGSBOROUGH

SPECIAL TOWN MEETING WARRANT

TYNGSBOROUGH HIGH SCHOOL GYMNASIUM
50 NORRIS ROAD, TYNGSBOROUGH, MA 01879

October 26, 2021

7:00 PM

Middlesex, SS.

To either of the Constables of the Town of Tyngsborough, Massachusetts, in the County of Middlesex:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of said Town of Tyngsborough, qualified to vote in town affairs, to meet at the Tyngsborough High School Gymnasium in said Tyngsborough on Tuesday the twenty sixth day of October in the year two thousand twenty one at 7 o'clock in the evening, then and there to act on the following articles:

Article 1: An Act Authorizing the Town of Tyngsborough to offer early voting and no excuse absentee voting in municipal elections

To see if the Town will vote to authorize the Board of Selectmen to file a petition within the General Court for special legislation, substantially as set forth below, authorizing the Town of Tyngsborough to offer early voting and no excuse absentee voting in municipal elections; to authorize the General Court to make clerical and editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of the aforesaid petition, or take any action relative thereto.

An Act authorizing the Town of Tyngsborough to offer early voting in municipal elections

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Beginning the year 2021, notwithstanding any general or special law to the contrary, the Town of Tyngsborough may offer early voting and no excuse absentee voting in municipal elections.

The Town of Tyngsborough may elect to allow any qualified voter, as defined in section 1 of chapter 51 of the General Laws, to cast a ballot for any municipal election during the early voting and absentee voting period.

The Town of Tyngsborough's Board of Selectmen, upon consultation with the Town Clerk, may promulgate regulations to implement this act not inconsistent with section 25B of chapter 54 of the General Laws and with other election laws applicable in said section 25B of chapter 54 of the General Laws. Such regulations may include, but are not limited to, a process for establishing early voting locations, dates, and staffing, and a process for applying for, receiving, separating, compiling, recording, and securing early voter ballots. Each early voting site shall be accessible to persons with disabilities.

Article 2: Amend Town By-laws- Annual Town Election and Town Meeting Dates

To see if the Town will vote to amend the Town By-laws by eliminating the language below with a strikethrough and adding the language below in bold, or take any other action relative thereto;

Article I) TOWN MEETINGS.

Section 1. The Annual Town Meeting shall be held **each May on either the third First Tuesday at 7:00 in the afternoon or first Saturday at 9:00 in the forenoon.** ~~The polls shall be open as stated in the Warrant calling said meeting.~~

Article LII) TOWN ELECTION

Section 1. The Annual Town Election shall be held on the third Tuesday of each May. The polls shall be open, at a minimum, from 7:00 AM to 8:00 PM on election day. A minimum of 32 hours of early voting shall be established, including at least one day with polls open until 8:00 PM. These hours may be adjusted by the Board of Selectmen in accordance with applicable law if required to protect the interests of public health or public safety.

Article 3: Special Purpose Stabilization Fund for Road Maintenance; Revenue Dedication

To see if the Town will vote to dedicate 75% of adult use marijuana local sales tax revenues collected under Massachusetts General Laws Chapter 64N, Section 3, to the Road Maintenance Stabilization Fund, for the period beginning on July 1, 2022 through June 30, 2025; or take any other action relative thereto.

Article 4: An Act changing the Board of Selectmen of the Town of Tyngsborough to a Select Board

To see if the Town will vote to authorize the Board of Selectmen to file a petition within the General Court for special legislation authorizing a change in title of the Board of Selectmen to Select Board, substantially as set forth below; to authorize the General Court to make clerical and editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of the petition, or take any action relative thereto.

An Act changing the Board of Selectmen of the town of Tyngsborough to a Select Board

SECTION 1. Notwithstanding any general or special law to the contrary, the executive body of the Town of Tyngsborough, previously known as the Board of Selectmen, shall be known as the Select Board and shall have the powers and authority of a board of selectmen under any general or special law, and individual members, previously known as Selectmen, shall be referred to as Select Board members.

SECTION 2. This act shall take effect upon its passage.

Article 5: Amend Town General By-laws and Town Zoning By-laws regarding title of Board of Selectmen

To see if the Town will vote to amend the Town By-laws and Zoning By-laws by replacing all references therein to the “Board of Selectmen” or “Selectmen” with the references to the “Select Board” or to “Select Board members,” respectively. This change is contingent upon and shall take effect only if and upon the passage of the Home Rule petition as presented in Article 6 of the Special Town Meeting Warrant, which effects the foregoing change in title and vests the Select Board with all power and authority of a board of selectmen, or take any other action relative thereto.

Article 6: An Act Establishing the Position of Town Manager in the Town of Tyngsborough

To see if the Town will vote to authorize the Board of Selectmen to file a petition with the General Court for special legislation establishing the position of Town Manager in the Town of Tyngsborough, outlining the process for appointment and removal of the Town Manager, and the powers, duties and responsibilities of such office, all substantially as set forth below; to authorize the General Court to make clerical and editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of the petition, or take any action relative thereto.

An Act Establishing the Position of Town Manager in the Town of Tyngsborough

SECTION 1. There is hereby established in the town of Tyngsborough the office of town manager to be appointed by majority vote of the full Tyngsborough board of selectmen to serve for a term of not more than 3 years. The board shall fix the compensation for such person, annually, within the amount appropriated by the town. The town manager shall be appointed on the basis of educational, executive, and administrative qualifications and experience. At least 3 months prior to the expiration of any contract term, the board of selectmen shall vote on whether to reappoint the town manager, and such reappointment shall be by majority vote of the full board, provided, however, that that the provisions of section 8 of this act shall not apply to such vote. To be eligible for appointment, the town manager shall not have served in an elective town office in Tyngsborough for at least 12 months prior to appointment. The town manager shall devote full time to the office and shall not, unless approved in advance by the board of selectmen, hold any other public office, elected or appointed, unless in an ex officio capacity, nor engage in any business or occupation during such service.

SECTION 2. The board of selectmen shall provide for an annual review of the job performance of the town manager based upon the duties of the manager listed in Section 3 of this act, a summary of which shall be prepared and be a public record. Failure to administer an annual review shall not prohibit the board of selectmen from authorizing any annual increase in compensation.

SECTION 3. The town manager shall be the chief administrative officer of the town, directly responsible to the board of selectmen for the administration of all town affairs for which the office of town manager is given responsibility by this act. The town manager shall supervise, direct and be responsible for the efficient administration of all functions and activities for which the office of town manager is given authority, responsibility or control by this act, by-law, town meeting vote, or vote of the board of selectmen, including but not limited to the following:

- A. To appoint, and in appropriate circumstances remove, subject to any applicable collective bargaining agreement, personnel by-law or employment contract, an assistant town manager,

department heads, officers, agents, and other employees of the town for whom no other method of selection or removal is provided by this act, other than those under the jurisdiction of the school committee and the board of library trustees, and shall forthwith give written notice of such appointment to the board of selectmen and the respective board or department; provided, however, that appointment of agents of appointed or elected multiple-member bodies, or of department heads for departments for which an appointed or elected board provides policy direction, shall be made only after consultation with the respective appointed or elected multiple-member body.

- i. All appointments of department heads and multiple-member bodies made under section 3(A) of this act shall become effective on the 15th day following the day on which such notice of appointment is filed with the board of selectmen, unless the board shall, within that period by a majority vote of the full board, vote to reject such an appointment, or has sooner voted to affirm it. A copy of each notice of appointment shall be posted on the town bulletin board and website when submitted to the board of selectmen.
 - ii. Notwithstanding any other provision of this act to the contrary, when a vacancy occurs or will occur on a date certain in the office of fire chief or police chief, and prior to exercising any authority under section 3(A) of this act, the town manager shall consult with the board of selectmen as to the criteria and process for appointment.
 - iii. The board of selectmen retains the authority to appoint legal counsel, town accountant, board of registrars, zoning board of appeals, certain members of the community preservation committee as set forth by by-law, conservation commission, historical commission, cultural council, recreation commission, and council on aging.
- B. To administer the town personnel system, including, but not limited to personnel by-laws, policies and procedures, rules and regulations, collective bargaining agreements and employment contracts; the town manager shall also prepare and maintain a current plan establishing personnel staffing requirements for each town department, excepting school and library personnel.
 - C. To attend all regular and special meetings of the board of selectmen, unless absence is approved in advance by the chair of the board of selectmen, and shall have a voice, but no vote, in all of the board of selectmen's proceedings.
 - D. To assure that a full and complete record of the financial and administrative activities of the town is kept and rendered as often as may be required by the board of selectmen. Not less than once a year, a full written report of all town administrative operations during the period reported on, shall be made available to the public.
 - E. To keep the board of selectmen fully advised as to the needs of the town and recommend to the board of selectmen and to other elected and appointed town officers and departments adoption of such measures requiring action by them or by the town meeting as the town manager may deem necessary or expedient.
 - F. To be responsible for the maintenance and repair, rental and use, of all town buildings and facilities, excluding those facilities where by law the jurisdiction and control is vested in another board or department.

- G. To prepare and present to the board of selectmen an annual operating budget for the town and develop material for the preparation of a proposed capital improvement plan for the next 5 fiscal years, with the assistance of any committee that may be created by by-law for such purposes.
- H. To assure that a complete inventory of all property of the town, both real and personal, is kept, excluding property under the control of the library trustees or school committee.
- I. To negotiate, on behalf of the board of selectmen, all contracts involving wages, hours and other terms and conditions of employment and collective bargaining agreements; provided, however, that all such contracts and agreements shall be subject to the approval of the board of selectmen.
- J. To be the chief procurement officer for the town, in accordance with the provisions of M.G.L. c. 30B, and be responsible for purchasing all supplies and services for all departments and activities of the town, including awarding and executing contracts therefor. The town manager shall be certified by the inspector general as a Massachusetts certified public purchasing official, or receive a similar certification, at the time of initial appointment or within a reasonable period of time following such appointment. The town manager shall report to the board of selectmen any contracts signed under the authority of this section.
- K. To execute warrants for payment of bills and payrolls prepared by the town accountant in accordance with the provisions of section 56 of chapter 41 of the General Laws, and to report the same to the board of selectmen at the first meeting following such action; provided, however, in the event of a temporary or permanent vacancy in the office of the town manager and assistant town manager, the board of selectmen shall have sole authority to sign such warrants.
- L. To see that the provisions of this act, town by-laws, and other votes of the town meeting and of the board of selectmen which require enforcement by the town manager are faithfully performed.
- M. To inquire, at any time, into the conduct and operation of any office or performance of duties of any town officer, employee, department, or multiple-member body.
- N. To attend all sessions of all town meetings and, when authorized by the moderator, answer questions raised by voters relating to warrant articles and matters over which the town manager exercises any supervision.
- O. To, with the approval of the board of selectmen, reorganize, consolidate, or abolish, in whole or in part, town departments under the supervision of the town manager, provide for new town departments, subject to any appropriation required therefor, and provide for a reassignment of powers, duties and responsibilities among such departments so established or existing, provided, however, that except as expressly otherwise provided herein, no authority or responsibility assigned by the general laws may be so reorganized, consolidated or abolished.
- P. To facilitate communications, coordination, and operations between and amongst town departments serving under the town manager, board of selectmen, and other officers and multiple member bodies elected directly by the voters, and in that regard, shall have authority to reasonably require appointed and elected officers of the town or their representatives to meet with the town manager from time to time. The town manager shall have the right to attend and speak at any meeting of any multiple member body, but shall not have the right to vote.
- Q. To seek state, federal, regional and all other grants that may be of benefit to the town. The town

manager shall review and, following notification to the board of selectmen, approve all grant applications otherwise requiring approval of the board of selectmen.

- R. To, with the approval of the board of selectmen and finance committee, transfer the appropriation of one town department or agency to another, so far as is consistent with the use for which the funds were voted by the town.
- S. To perform any other duties required to be performed by the town manager by by-law or vote of the board of selectmen. If an assistant town manager is appointed, the town manager may delegate any of the duties and responsibilities hereunder to such assistant; provided, however, that the actions of the assistant shall be deemed to be those of the town manager.
- T. To ensure that the board of selectmen is fully informed of the town's emergency preparedness planning. In time of public danger or emergency, the town manager, in collaboration with the emergency management director, shall direct and oversee management of town resources pursuant to any applicable state law, regulation, or other protocol, directive, or agreement to which the town is a signatory or participant. Should the town manager be unavailable, the emergency management director shall perform such duties as may be necessary.
- U. To take such other action, consistent with this charter, as may be authorized by vote of the board of selectmen.

SECTION 4. Should an assistant town manager be appointed in accordance with section 3(A) of this act, the assistant town manager shall exercise the powers and perform the duties of the town manager during an absence of the town manager of not more than 15 days; otherwise, the town manager, with the approval of the board of selectmen, shall by letter filed with the town clerk and board of selectmen, designate another qualified town officer or employee to serve in such capacity.

SECTION 5. Any vacancy in the office of town manager shall be filled as soon as possible by the Tyngsborough board of selectmen, but, pending such regular appointment, the board of selectmen shall appoint a qualified town officer, employee, or individual, who may but need not be the assistant town manager, if any, to perform the duties of the office on an acting basis, and who shall be referred to as the acting town manager. Such temporary appointment may not exceed 3 months, but no more than 2 additional 3-month renewals may be approved by the board of selectmen. Compensation for such person shall be set by the board of selectmen within the amount approved by town meeting for the position of town manager.

SECTION 6. The powers and duties of a temporary or acting town manager under sections 4 and 5 of this act shall be limited to matters not admitting of delay and shall include authority to make temporary, emergency appointments or designations to town office or employment but not to make permanent appointments or designations.

SECTION 7. The Tyngsborough board of selectmen may, by a vote of no less than 4 of its members, terminate the town manager for cause at any time after the opportunity for a hearing for which the town manager has received at least 10 days prior written notice; the board of selectmen may place the town manager on paid administrative leave pending such hearing. The action of the board of selectmen in suspending or removing the town manager shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal solely in the board of selectmen.

SECTION 8. When a vacancy exists in the office of town manager, the board of selectmen shall establish a screening committee to review applicants for the position of town manager; provided, however, that in the alternative, it may adopt a preliminary resolution that a screening committee is not required, and by a vote of no less than 4 of its members, make a direct appointment of a candidate, including the assistant town manager, if any, meeting the qualifications set forth in section 1 of this act.

If a screening committee is appointed under the first clause of this section, it shall consist of 5 or 7 persons who live or work in the town, representing to the extent possible a broad demographic and occupational base. No more than two members of the board of selectmen shall serve on the committee.

- A. The screening committee shall review all applications received by it, screening qualified candidates to the extent permitted by law, and provide for an interview to be conducted with such number of candidates it deems to be necessary and appropriate.
- B. The committee shall submit to the board of selectmen the names, in no particular order, of a minimum of 3 persons whom it has determined to be best suited to perform the duties of the town manager.
- C. By majority vote of the entire board of selectmen, one such nominee may be selected to serve as town manager. Or, if none of the nominees is selected, the board of selectmen may re-convene a new screening committee or choose an alternative method of reviewing applicants in accordance with the first paragraph of this section.
- D. Upon the appointment of a town manager or the appointment of a new screening committee as set forth in section 8(C), the screening committee shall be considered discharged.

SECTION 9. The incumbent town administrator in office on the effective date of this act shall be the first town manager, and shall continue in office until the town manager's non-reappointment, resignation, retirement, or removal in accordance with the provisions of sections 1 or 7 of this act. At that time, appointment of a new town manager shall be undertaken in accordance with section 8 of this act.

SECTION 10. This act shall take effect upon passage.

Article 7: Fund Employee Contractual Agreements

To see if the Town will vote to raise and appropriate and/or transfer from available funds such sums of money as may be necessary to fund Fiscal Year 2022 contractual and collective bargaining agreements for the town's SEIU Local 888 Clerical, Highway and Mid Management Chapters, NEPBA Local 8B Superior Officers, and non-union personnel, or take any other action relative thereto.

Department	Budget Increase
160 Town Clerk	\$2,744.97
145 Treasurer	\$1,670.00
146 Collector	\$3,299.04
135 Accounting	\$3,827.97
141 Assessor	\$5,808.03
610 Library	\$8,893.84
543 Veterans	\$5,474.33
510 Health	\$10,163.60
171 Conservation	\$2,497.98

175 Planning	\$2,946.28
176 Zoning	\$229.20
241 Building	\$8,755.25
421 Highway	\$12,422.63
541 COA	\$11,435.77
280 Media	\$1,370.00
630 Recreation	\$3,292.00
410 Engineering	\$2,039.98
600 Sewer	\$6,794.09
210 Police	\$19,747.47
123 Administration	\$4,115.00
193 IT	\$2,020.00
152 Human Resources	\$5,000.00

Article 8: Amending Zoning Bylaw with Craft Brewery, Taproom, Distillery Definitions

To see if the Town will vote to amend the Town Zoning By-laws by adding Craft Brewery, Craft Brewery & Taproom, and Craft Distillery to the Section 2.11.30 Table of Uses, and associated definitions to Section 2.11.44 Business Uses, and parking requirements to Section 3.10.24 Table of Parking Requirements or take any other action relative thereto:

2.11.30 TABLE OF USES

Principal Uses	Residential Districts			Business Districts				Industrial Districts
	R-1	R-2	R-3	B-1	B-2	B-3	B-4	I-1
Business Uses								
Craft Brewery	O	O	O	O	SS-R	P	P	P
Craft Brewery & Taproom	O	O	O	O	SS-R	SS-R	SS-R	SS-R
Craft Distillery	O	O	O	O	SS-R	P	P	P

2.11.44 Business Uses

Craft Brewery - A brewery, microbrewery, or nanobrewery licensed under the relevant state and federal statutes that produces and packages malt (beer), wine, or hard cider beverages for wholesale distribution, retail, and on premise sales. Special Permit shall require a Farmer-brewery license issued by the Commonwealth under MGL Ch. 138 Section 19C. Production is limited to 15,000 barrels (a barrel being equivalent to thirty-one (31) gallons) annually. Samples no greater than 4 fluid ounces may be served on premise.

Craft Brewery & Taproom - A permitted Craft Brewery that has been issued a Farmer Series Pouring Permit may operate a taproom to sell, for on-site consumption, only malt (beer), wine, or hard cider beverages produced by the brewery or produced for the brewery and sold under the brewery brand name (sales of any other alcoholic beverages is prohibited). Merchandise and non-beverage retail items may also be sold. Food service may be required and defined by the Board of Selectmen as a condition of taproom operation. May include other uses such as a restaurant, including outdoor service or dining if otherwise permitted in the zoning district.

Craft Distillery - A small, independently owned facility licensed under the relevant state and federal statutes to produce alcoholic beverages that are bottled for wholesale or retail distribution. Samples no greater than 1.5 fluid ounces may be served. A tasting room can be established as an accessory with

special permission from the Board of Selectmen. Food service may be required and defined by the Board of Selectmen as a condition of tasting room operation. May include other uses such as a restaurant, including outdoor service or dining if otherwise permitted in the zoning district.

Section 3.10.24 Table of Off-Street Parking Requirements

Use	Number of Spaces
Craft Brewery, Craft Brewery & Taproom, Craft Distillery	1 space per 300 square feet of service area

Article 9: Approve Prior Year Bills

To see if the Town will vote to approve payment on the following bills which were incurred during a previous fiscal year:

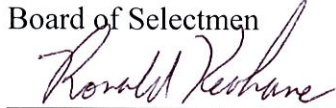
Vendor	Invoice #	Amount	Account	Department
WB Mason	221236253	\$180.24	001-192-5420-000	Administration
WB Mason	221136631	\$20.53	001-192-5420-000	Administration
Snap On	06282181467	\$435.60	001-422-5530-000	Highway
ASAP Sprinkler	5932	\$540.00	001-192-5238-002	Recreation
ASAP Sprinkler	9277	\$470.00	001-192-5238-002	Recreation

And you are hereby directed to serve this Warrant, by posting attested copies thereof at the Town Hall, Kendall Road Fire Station No.1, and Council on Aging Center, Lakeview Avenue Fire Station No.2, in said Town, fourteen (14) days at least before the time of holding said meeting.

HEREOF FAIL NOT, and make due return the Warrant, with your doings thereon to the Town Clerk at the time and place of meeting, aforesaid.

Given under our hands and seals this 27th day of September, in the year two thousand twenty one.

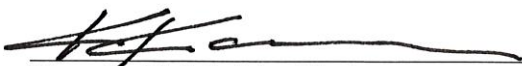
Board of Selectmen



Ronald Keohane, Chair



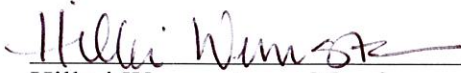
Eric Eldridge, Vice Chair



Katerina Kalabokis, Clerk



Richard Reault, Member



Hillari Wennerstrom, Member

Pursuant to the foregoing Warrant, I have notified and warned the inhabitants of the Town of Tyngsborough by posting attested copies of same at the Town Hall, Kendall Road Fire Station No. 1, Council on Aging Center, and Lakeview Avenue Fire Station No. 2, and at least fourteen (14) days before the date thereof, as within directed.

Constable